

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF HENNEPIN

FOURTH JUDICIAL DISTRICT
CASE TYPE: 14. Other Civil
(declaratory judgment and MERA)

State of Minnesota by Smart Growth
Minneapolis, LLC, Audubon Chapter of
Minneapolis and Minnesota Citizens for the
Protection of Migratory Birds,

Case File No. _____
The Honorable _____

Plaintiffs,

**PLAINTIFFS' NOTICE OF MOTION
AND MOTION FOR TEMPORARY
RESTRAINING ORDER**

v.

City of Minneapolis,

Defendant.

TO: Defendant City of Minneapolis, c/o Mayor Jacob Frey, 350 South 5th Street, Room 331, Minneapolis, MN 55415 and City Clerk Casey Joe Carl, 350 South 5th Street, Room 304, Minneapolis, MN 55415

PLEASE TAKE NOTICE, that at the earliest date and time available, Plaintiffs State of Minnesota by Smart Growth Minneapolis, LLC, Audubon Chapter of Minneapolis and Minnesota Citizens for the Protection of Migratory Birds (Plaintiffs) will move the Court for a temporary restraining order (1) enjoining Defendant City of Minneapolis (City) from its anticipated approval of the Minneapolis 2040 Comprehensive Plan (2040 Plan) at 9:30 a.m. on Friday, December 7, 2018, and (2) ordering that this injunction continue unless and until City satisfies its Minnesota Environmental Rights Act (MERA)-required "rebut[tal]" to or "affirmative defense" to Plaintiffs' "prima facie showing" that the 2040 Plan "is likely to cause the pollution, impairment, or destruction of the air, water, land or other natural resources located within the state," presumably through a voluntary environmental review (*i.e.*, Environmental Impact Statement (EIS) or Alternative Urban Areawide Review (AUAR)).

Plaintiffs' motion for TRO is brought pursuant to Minn. Stat. ch. 116B and Minn. R. Civ. P. 65 and will be based upon all of the files, records, and proceedings herein, including without limitation their Verified Complaint for Declaratory and Injunctive Relief Under MERA and the contemporaneously-filed Memorandum of Law, and the arguments of counsel.

DATED: December 3, 2018

BRIGGS AND MORGAN, P.A.

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MINNESOTA BY PLAINTIFFS
SMART GROWTH MINNEAPOLIS, LLC,
AUDUBON CHAPTER OF MINNEAPOLIS
AND MINNESOTA CITIZENS FOR THE
PROTECTION OF MIGRATORY BIRDS**

ACKNOWLEDGMENT

The parties, through their undersigned counsel, hereby acknowledge that sanctions may be imposed for a violation of Minn. Stat. § 549.211, subd. 2 pursuant to Minn. Stat. § 549.211, subd. 3.

s/ Jack Y. Perry

Jack Y. Perry

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KS^{TR}P